


# ***TR 2011/6A1 - Addendum - Income tax: business related capital expenditure - section 40-880 of the Income Tax Assessment Act 1997 core issues***

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## Addendum

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### Taxation Ruling

#### Income tax: business related capital expenditure – section 40-880 of the *Income Tax Assessment Act 1997* core issues

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Taxation Ruling TR 2011/6 by inserting an additional example to illustrate the application of subsection 40-880(6) of the *Income Tax Assessment Act 1997*.

#### **TR 2011/6 is amended as follows:**

##### **1. Paragraph 318**

After the paragraph; insert:

##### ***Example 40A***

*318A. The Koala Hotel and Tavern (KHT) carries on a hospitality business that includes offering authorised gaming activities on gaming machines. Under state gaming regulations, KHT must hold a gaming machine entitlement for each gaming machine operated at its premises. There are statutory caps on the number of entitlements issued state-wide, and to each holder and in each region. Each entitlement, identified by its unique serial number, authorises its holder to operate a gaming machine for a 10-year term, after which a reapplication and reallocation process will occur. Each entitlement is tradable on a state-regulated entitlement trading market.*

*318B. KHT applied for, and was granted by the state, an allocation of gaming machine entitlements upon payment of an agreed price per entitlement. The capital expenditure incurred to acquire a gaming machine entitlement constitutes the first element of the cost base of the entitlement and will be taken into account in determining the capital gain or capital loss arising from either the sale or expiry of the entitlement. The expenditure therefore is excluded by the exception in paragraph 40-880(5)(f).*

318C. *Subsection 40-880(6) does not prevent paragraph 40-880(5)(f) from applying. The value to KHT of the entitlements is not solely attributable to the effect that the entitlements have on the goodwill in KHT's business. Each entitlement has a distinct value to KHT because it permits KHT to conduct authorised gaming activity using a gaming machine at its business premises and thereby earn profits, which it otherwise could not earn, from such conduct for a 10-year period. An entitlement may also be traded on a secondary market. This value arises regardless of whether the expenditure can also be said to be 'to preserve' goodwill to any extent.*

318D. *As the expenditure is recognised under the capital gains tax provisions, a deduction under section 40-880 is not allowable.*

## 2. Appendix 3 – Detailed contents list

Insert:

*Example 40A*

318A

This Addendum applies to arrangements begun to be carried out from 1 July 2005.

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**Commissioner of Taxation**

13 July 2016

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ATO references

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